

ORDINANCE NO. 09-99

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE IV PURCHASING AND COMPETITIVE BIDDING, AND IN PARTICULAR, ADDING A NEW DIVISION, DIVISION 3. ENTITLED "PREQUALIFICATION OF CONTRACTORS THAT SUBMIT BIDS OR PROPOSALS TO ROAD PROJECTS IN EXCESS OF \$250,000" TO PROVIDE LEGISLATIVE PURPOSE, APPLICATION PROCESS, CRITERIA FOR CONSIDERATION AND INELIGIBILITY, REVIEW PROCEDURE FOR INELIGIBLE OR SUSPENDED CONTRACTORS AND PROVIDE EXEMPTION FOR FDOT-PREQUALIFIED CONTRACTORS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, effective October 1, 2009, the Florida Legislature, pursuant to House Bill 611, amended section 255.05, Florida Statutes providing a procedure for contractors, who are not FDOT prequalified, to be prequalified or certified to do the work prior to advertising on city road projects costing in excess of \$250,000; and

WHEREAS, the specific purpose of this ordinance is to establish a prequalification procedure and criteria for those qualified and licensed contractors who may not be FDOT-prequalified, to bid or propose on city projects in order to expand the field of competent contractors to work on city road projects costing more than \$250,000 in compliance with state law.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 2 entitled "Administration", Article IV. Purchasing and Competitive Bidding, of the Code of Ordinances of the City of Hialeah, Florida, by adding a new division, entitled "Prequalification of contractors that submit bids or

propose on road projects costing more than \$250,000", is hereby amended to read as follows:

Chapter 2

ADMINISTRATION

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ARTICLE IV. PURCHASING AND COMPETITIVE BIDDING

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DIVISION 3. PREQUALIFICATION OF CONTRACTORS THAT SUBMIT BIDS OR PROPOSE ON ROAD PROJECTS COSTING MORE THAN \$250,000

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Sec. 2-820 Purpose.

The city establishes this local procedure to allow contractors who are not pre-qualified with the state department of transportation to bid (submit a bid in response to an invitation to bid) or propose (submit a proposal in response to a request for proposal) on city road projects costing more than \$250,000. Contractors who are prequalified by the state department of transportation to do the work described in the bid or request for proposal are not required to be prequalified with the city in order to bid or propose on city road projects costing more than \$250,000.

Sec. 2-821. Application process and criteria.

Contractor shall file an application at any time with the streets department on forms to be furnished by the department, together with a \$100 fee. The application shall provide the following:

(a) Contractor shall provide documentation of bonding capacity in excess of \$250,000.

(b) Contractor shall provide two favorable references for road construction work completed within the last 3 years.

(c) Contractor shall provide a list of equipment currently owned or leased by the contractor that is regularly utilized in performing the class of work.

(d) Contractor must have valid and current state certification or professional license for the class of work.

(e) Contractor shall provide a list of all supervisory personnel including the name, education, experience, and licensure/certifications.

(f) Contractor shall provide proof of the ability to secure comprehensive general liability insurance of a minimum of \$1,000,000 for road construction projects.

Sec. 2-822. Ineligibility.

(a) A contractor is ineligible to bid or propose on city road projects if the contractor is found guilty by a court of any violation of federal labor or employment tax laws regarding subjects such as safety, tax withholding, workers compensation, unemployment tax, social security and Medicare tax, wage or hour, or prevailing rate laws within the previous five years.

(b) A contractor is ineligible to bid or propose on city road projects if the contractor is behind by ten percent or more on completing an approved progress schedule for the city at the time of advertising the work for a new city project.

(c) A contractor or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime is ineligible to bid or propose on city road projects for a period of 36 months from the date of being placed on the convicted vendor list.

Sec. 2-823. Approval or denial of prequalification.

If the application is sufficient and meets the criteria provided in section 2-821 and is not otherwise ineligible,

the city shall approve the contractor's application and shall be considered prequalified to bid or propose on city road construction projects costing more than \$250,000 from the date of approval forward on all projects advertised after the approval date, extending for three years from the approval date. The contractor may extend its prequalification status through the same application and approval process for additional three-year periods.

Sec. 2-824. Suspension of prequalified contractor.

If a contractor becomes ineligible after being prequalified, the contractor will be disqualified or suspended from further bidding or submitting proposals on city road projects until either reinstated or until the contractor prequalifies after the contractor is no longer ineligible.

Sec. 2-825. Review and appeal.

If a contractor is not approved for prequalification or is disqualified or suspended after prequalification, the contractor can request a de novo review by the city council by filing a written request in the office of the city clerk for review of the administrative decision to the city council, together with a fee of \$250, no later than 15 calendar days after the date of the administrative decision. The city council shall review the administrative decision at a public meeting. The city council will allow the contractor to present supporting testimony and evidence under oath, subject to cross-examination, and the city to present testimony and evidence in support of its administrative decision, subject to cross-examination, within 60 days of the filing of the request. The city council decision shall constitute final agency action and may be appealed to the circuit court, appellate division, according to the rules of appellate procedure.

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Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

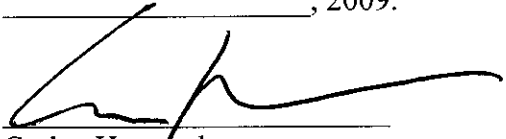
Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the

Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

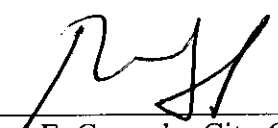
PASSED AND ADOPTED this 8th day of December, 2009.

THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Carlos Hernandez
Council President

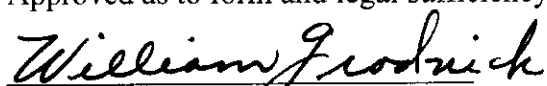
Attest:

Approved on this 9 day of December, 2009.


Rafael E. Granado, City Clerk


Mayor Julio Robaina

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

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Ordinance was adopted by a 6-0 vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Garcia-Martinez, Hernandez, Yedra voting "Yes", Councilmember Gonzalez absent.